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Chapter No. 425
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SENATE BILL NO. 2012

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2012

AN ACT TO REENACT SECTIONS 85-7-301, 85-7-303, 85-7-305, 85-7-307, 85-7-309, 85-7-311, 85-7-313 AND 85-7-315, MISSISSIPPI CODE OF 1972, WHICH SECTIONS CONSTITUTE ARTICLE 19 OF CHAPTER 7, TITLE 85, MISSISSIPPI CODE OF 1972, AND CREATE A LIEN ON CAUSES OF ACTION ACCRUING TO CERTAIN INJURED PERSONS FOR UNCOMPENSATED TRAUMATIC BURN CARE; TO REPEAL SECTION 85-7-317, MISSISSIPPI CODE OF 1972, WHICH IS A SUNSET PROVISION FOR SECTIONS 85-7-301 THROUGH 85-7-315; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 85-7-301, Mississippi Code of 1972, is reenacted as follows:

85-7-301. (1) Except where the context otherwise requires in subsection (2) of this section, as used in Sections 85-7-301 through 85-7-315, the term:

(a) "Qualifying hospital" means any hospital designated as a burn center by the State Department of Health.

(b) "Qualifying practice" means any physician practice that provides care, treatment or services to a patient who has been admitted to a qualifying hospital.

(c) "Care, treatment or services" means burn care or burn-related treatment, or services furnished by a qualifying hospital or qualifying practice.

(d) "Uncompensated traumatic burn care" means any portion of care, treatment or services rendered by a qualifying hospital or qualifying practice with respect to a patient whose burn care, treatment or services arose out of a single accident or occurrence for which the qualifying hospital or qualifying practice did not receive payment.

(2) Any person, firm, authority or corporation operating a qualifying hospital or qualifying practice providing traumatic burn care in this state shall have a lien for the reasonable charges for care, treatment or services of an injured person for uncompensated traumatic burn care, which lien shall be only upon any and all causes of action accruing to the person to whom the care was furnished or to the legal representative of the person on account of injuries that gave rise to the causes of action and that necessitated the care, treatment or services, subject and subordinate, however, to any attorney's lien or fees. The lien provided for in this subsection is only a lien against those causes of action and shall not be a lien against the injured person, the legal representative, or any other property or assets of those persons and shall not be evidence of the person's failure to pay a debt. This subsection shall not be construed to interfere with the exemption from Sections 85-7-301 through

85-7-315 provided by Section 85-7-309, nor shall this subsection prohibit an injured person or his legal representative from negotiating with a qualifying hospital or practice.

SECTION 2. Section 85-7-303, Mississippi Code of 1972, is reenacted as follows:

85-7-303. (1) In order to perfect the lien provided for in Section 85-7-301, the operator of the qualifying hospital or qualifying practice:

(a) Shall, not less than fifteen (15) days before the date of filing the statement required under paragraph (b) of this subsection, provide written notice to the patient and the legal representative of the patient, if applicable, and, to the best of the operator's knowledge, the persons, firms, corporations and their insurers claimed by the injured person or the legal representative of the injured person to be liable for damages arising from the injuries and shall include in the notice a statement that the lien is not a lien against the patient or any other property or assets of the patient and is not evidence of the patient's failure to pay a debt. The notice shall be sent to all those persons and entities by first-class and certified mail or statutory overnight delivery, return receipt requested; and

(b) Shall file in the office of the clerk of the chancery court of the county in which the qualifying hospital or qualifying practice is located and in the county in which the patient resides, if a resident of this state, a verified statement

setting forth the name and address of the patient as it appears on the records of the qualifying hospital or qualifying practice; the name and location of the qualifying hospital or qualifying practice, and the name and address of the operator thereof; the dates of admission and discharge of the patient from the qualifying hospital, or with respect to a qualifying practice, the dates of treatment; the amount claimed to be due for the qualifying hospital or qualifying practice; and certification that the amount claimed is for treatment of uncompensated traumatic burn care, which statement must be filed within the following time period:

(i) If the statement is filed by a qualifying hospital, then the statement shall be filed within seventy-five (75) days after the person has been discharged from the facility; or

(ii) If the statement is filed by a qualifying practice, then the statement shall be filed within ninety (90) days after the person first sought treatment from the practice for the injury.

(2) The filing of the claim or lien shall be notice thereof to all persons, firms or corporations liable for the damages, whether or not they received the written notice provided for in this section. The failure to perfect the lien by timely complying with the notice and filing provisions of subsection (1) of this section shall invalidate the lien, except as to any person, firm,

or corporation liable for the damages, which receives before the date of any release, covenant not to bring an action, or settlement, actual notice of a notice and filed statement made under subsection (1) of this section, via hand delivery, certified mail, return receipt requested, or statutory overnight delivery with confirmation of receipt.

SECTION 3. Section 85-7-305, Mississippi Code of 1972, is reenacted as follows:

85-7-305. The clerk of the chancery court shall endorse the date and hour of filing on the statement filed under Section 85-7-303; and, at the expense of the county, the clerk shall provide a lien book with a proper index in which the clerk shall enter the date and hour of the filing; the names and addresses of the qualifying hospital or qualifying practice, the operators thereof, and the patient; and the amount claimed. The information shall be recorded in the name of the patient.

SECTION 4. Section 85-7-307, Mississippi Code of 1972, is reenacted as follows:

85-7-307. (1) No release of the cause or causes of action or of any judgment thereon or any covenant not to bring an action thereon shall be valid or effectual against the lien created by Section 85-7-301 unless the holder thereof is given notification of the results of the cause of action or executes a release of the lien; and the injured party (the "claimant") or an assignee of the lien holder may enforce the lien by an action against the person,

firm or corporation liable for the damages or the person, firm or corporation's insurer. If the claimant prevails in the action and if the claimant's balance of the award is insufficient to cover the medical liens, the court may determine pro rata compensation in favor of the claimant. In no case shall the payment towards the liens exceed fifty percent (50%) of the claimant's balance. Any qualifying hospital or qualifying practice that receives payments under the authority of Sections 85-7-301 through 85-7-315 shall release the claimant from any further liens for the cost of hospital care, treatment or services provided for which the lien was placed. The action shall be begun against the person liable for the damages or the person's insurer within one (1) year after the date the liability is finally determined by a settlement, by a release, by a covenant not to bring an action, or by the judgment of a court of competent jurisdiction.

(2) No release or covenant not to bring an action that is made before or after the patient was discharged from the qualifying hospital or qualifying practice shall be effective against the lien perfected in accordance with Section 85-7-303, if the lien is perfected before the date of the release, covenant not to bring an action, or settlement unless notification is given to the qualifying hospital or qualifying practice; however, any person, firm or corporation that consummates a settlement, release or covenant not to bring an action with the person to whom care, treatment or services were furnished and that first procures from

the injured party an affidavit as prescribed in subsection (3) of this section shall not be bound or otherwise affected by the lien except as provided in subsection (3) of this section, regardless of when the settlement, release or covenant not to bring an action was consummated.

(3) The affidavit shall affirm:

(a) That all bills incurred for treatment for the injuries for which a settlement is made have been fully paid or resolved; and

(b) The county of residence of the affiant, if a resident of this state; however, the person taking the affidavit shall not be protected thereby where the affidavit alleges the county of the affiant's residence and the lien of the qualifying hospital or qualifying practice is at that time on file in the office of the chancery clerk and is recorded in the name of the patient as it appears in the affidavit.

SECTION 5. Section 85-7-309, Mississippi Code of 1972, is reenacted as follows:

85-7-309. Sections 85-7-301 through 85-7-315 shall not apply to:

(a) A cause of action filed by a person who received care, treatment or services from a qualifying hospital or a qualifying practice whose medical costs were paid by the Centers for Medicare and Medicaid Services.

(b) Any monies becoming due under the Workers' Compensation Law.

SECTION 6. Section 85-7-311, Mississippi Code of 1972, is reenacted as follows:

85-7-311. No settlement or release entered into or executed before the entry of the injured party into the qualifying hospital shall be affected by or subject to the terms of Sections 85-7-301 through 85-7-315.

SECTION 7. Section 85-7-313, Mississippi Code of 1972, is reenacted as follows:

85-7-313. Sections 85-7-301 through 85-7-315 shall not be construed to give any qualifying hospital or qualifying practice an independent right of action to determine liability for injuries sustained by a person or firm.

SECTION 8. Section 85-7-315, Mississippi Code of 1972, is reenacted as follows:

85-7-315. Any person who gives any false affidavit as provided by Section 85-7-307 commits the offense of perjury.

SECTION 9. Section 85-7-317, Mississippi Code of 1972, which is a sunset provision for Sections 85-7-301 through 8-7-315, which sections constitute Article 19 of Chapter 7, Title 85, Mississippi Code of 1972, and create a lien in favor of providers of burn care, is repealed.

SECTION 10. This act shall take effect and be in force from and after July 1, 2019.

PASSED BY THE SENATE
February 7, 2019

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 11, 2019

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

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